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S. Gareth Graham

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1 A. I don't recall.

2 Q. You don't recall that you sat across from her?

3 A. I recall being in the room and had my -- and
4 talking to the trainer for some reason. I don't know if I
5 had known him from a previous employment he was involved
6 with, or but I was conversing with him. And then Ms. Varner
7 and the rest of the probation officers came in the room.

8 As far as knowing where I sat, I had probably
9 already established my seat with my tablet where I sat that
10 day, so. Where it was in relation to her, I couldn't tell
11 you.

12 Q. You believe you sat down first?

13 A. I was in the room first and sat -- and had my
14 material in the room first, yes.

15 Q. And you believe that you selected your place --

16 A. Absolutely.

17 Q. -- at a chair first?

18 A. Sure.

19 Q. But you weren't in your chair at the time?

20 A. I just said I was, I think I was talking to the
21 facilitator, because it was some connection I knew with this,
22 that I had known this guy or thought I knew this guy.

23 Q. Did you glare at Ms. Varner during this seminar?

24 A. No, ma'am.

25 Q. If someone said you did, that would be a lie?

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1 A. Absolutely.

2 Q. Now, you had another seminar after you were
3 transferred to the prison?

4 A. I've had probably yearly seminars that the county
5 has provided on sexual harassment, and I've been in
6 attendance to all those. So however many years I've been
7 down there they've had them, a yearly seminar on this.

8 Q. What you say down there, what do you mean?

9 A. At the prison.

10 Q. And were you there with other prison employees?

11 A. Yes, ma'am.

12 Q. So this was a seminar for prison employees held
13 at the prison and you were a part of it?

14 A. It was -- right. It was a seminar held
15 countywide by a Human Relations facilitator that set up
16 sexual harassment training for everybody in the entire
17 county. It made sense for me to attend the prison seminar as
18 opposed to run up to the courthouse to go to the Probation
19 seminar when they were being held.

20 Q. Were you prohibited in any way from being at the
21 courthouse after you were transferred to the prison? Do you
22 understand my question?

23 A. Yeah. That's kind of a multi-leveled, too,
24 response to that.

25 Q. Well, let me be more specific. Did you ever get

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1 a memo that said: Now that you've been transferred to the
2 prison you are not to enter the courthouse as part of your
3 duties?

4 A. No, I didn't.

5 Q. Did any of your supervisors, including Judge
6 Hoffer, tell you that you were prohibited from coming into
7 the courthouse?

8 A. No, ma'am.

9 Q. Were you at any time after you were transferred
10 to the prison told that you should not associate or come near
11 Ms. Varner?

12 A. No, ma'am.

13 Q. Did you believe that you had any restrictions
14 with regard to your interaction with Ms. Varner?

15 A. Only my self-imposed restrictions of not wanting
16 to have any interaction with her, and not having any -- I
17 didn't want to have any direct or indirect association with
18 her.

19 Q. And that wasn't because of what somebody told
20 you, but you just thought that would be prudent to do?

21 A. That's correct, ma'am.

22 Q. Did you park next to her car at the prison last
23 week?

24 A. I think I did.

25 Q. There were lots of parking spaces at the prison?

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1 A. I didn't recognize that to be her car until I
2 went in the prison and she was out there.

3 MS. WILLIAMS: A short break?

4 MR. MacMAIN: Why don't we take five minutes.

5 (Recess taken from 12:01 until 12:10 p.m.)

6 (Graham Deposition Exhibit No. 5 was marked.)

7 BY MS. WALLET:

8 Q. Mr. Graham, do you have what we've marked as
9 Deposition Exhibit 5?

10 A. Yes.

11 Q. What do you recall about this document?

12 A. It was a recommendation sheet submitted on Mark
13 Roderigo and --

14 Q. Actually, I think wasn't our agreement that we
15 were going to black that out? And I neglected to do that.

16 Was this a juvenile?

17 A. Yes, it was.

18 MS. WALLET: Okay. I would ask that we just say
19 Mark R., and I'll mark sure that the rest of the name is
20 blocked.

21 MR. MacMAIN: Agreed.

22 THE WITNESS: Okay. A recommendation memo that
23 Barb submitted along with a report. She had submitted this I
24 think on one or two previous occasions. I think she
25 submitted it prior to April 7th, 1997, and I had reviewed it

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1 and found some things that she needed to add into her report.
2 I itemized those, and this was the second or third go-around
3 over the same material that she submitted.

4 BY MS. WALLET:

5 Q. Okay. Now, how do I know that this is a second
6 or third go-around? Is there any way of telling that from
7 this document?

8 MR. MacMAIN: From this single sheet of paper?

9 MS. WALLET: Yes. I'm still talking about
10 Deposition Exhibit 5.

11 MR. MacMAIN: Sure.

12 THE WITNESS: Well, I responded back to her on
13 the 18th of April with -- and I had also given her a memo to
14 you on April 7th that I referred to.

15 BY MS. WALLET:

16 Q. You don't mean to me. To Ms. Varner?

17 A. To Ms. Varner.

18 Q. Okay. My question, sir, is: Can I tell by
19 looking at this document that this is something submitted
20 other than on April 2nd, 1997?

21 MR. MacMAIN: Let me just interject for
22 clarification. He says "see me about these cases," he's
23 referring to other documents, and I think the documents I
24 gave to you earlier today are going to have the other
25 documents he's referring to. So that would make things

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1 easier instead of this guessing game. What he's referring to
2 is other documents I believe you can question him about.

3 BY MS. WALLET:

4 Q. Did you understand my question, though?

5 A. I think so.

6 Q. And are you able to answer my question?

7 A. What does this memo refer to?

8 Q. My question is: How can I tell by looking at
9 this document that it was something submitted other than on
10 April 2, 1997?

11 A. I imagine that this report was prepared on April
12 2nd. Can I validate that that's when it was sent to me or
13 given to me? No, I can't.

14 Q. You said you thought this was the second or third
15 go-around. That's what I'm really asking you about.

16 A. Okay.

17 Q. How can I tell from this document that it was
18 some revision?

19 A. Well, based on my response to her on the 18th of
20 April, the handwritten note at the bottom, it says, "see me
21 about these cases," and, "you did not include what I asked
22 for in my memo to you on April 7th, 1997."

23 So evidently I gave her a memo after she
24 submitted this somewhere between the 2nd of April and the 7th
25 of April, and I had given her some corrections to put on the

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1 report, and she resubmitted it again on the 18th of April is
2 when I made these comments.

3 Q. Okay. So you believe that this document was the
4 version that was submitted to you by Ms. Varner sometime
5 after April 2nd, after April 7, but before April 18?

6 A. Yes, ma'am.

7 Q. But you would agree the document itself doesn't
8 indicate that?

9 A. You know, I'd have to pull -- I've had no
10 opportunity for discovery to pull those cases and to find
11 out, you know, what's actually in those cases and if they
12 contain the originalities of what were in them from the
13 beginning. So these are notes that, you know, I had when I
14 packed everything up from the courthouse to go out of the
15 courthouse.

16 Q. Okay. So the pack of documents that I received
17 from your counsel today, they were documents that you had
18 with you when you left the Probation offices in the
19 courthouse in or about March of '98?

20 A. Yes, ma'am.

21 Q. And what caused you to take these documents at
22 that time?

23 A. I had some documents on different people that
24 were in the office of court corrections that I had gone
25 through with them, and I had kept these documents because we

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1 were -- we had hired some new probation officers and they
2 were inexperienced and basically they had errors in their
3 reports and omissions in their reports. And I had kept
4 documents on different individuals that I made corrections
5 on.

6 Q. So you had some sort of a folder that said
7 Barbara Varner and you had documents in that related to her?

8 A. No. I had a work-related folder just on
9 different just work-related memorandums.

10 Q. Okay. But in that folder you had things related
11 to probation officers other than Ms. Varner?

12 A. Absolutely, um-hum.

13 Q. And then at some point in time you went through
14 that folder and picked out the things that your counsel gave
15 me today?

16 A. Well, when you produced this memo the other day,
17 you know, that you made reference to.

18 Q. Now, do you recall answering some requests for
19 documents that I served upon you sometime in or around July
20 or September of 2002?

21 A. I don't know what you're referring to.

22 Q. Okay. Well, let me just hand you what purports
23 to be S. Gareth Graham's Responses to Plaintiff's First Set
24 of Interrogatories. I believe they were served on me by fax
25 November 18 of 2002. Take a look at that.

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1 A. Okay.

2 Q. Have you had a chance to look at those responses?

3 A. Sure.

4 Q. Did you assist your counsel in preparing those
5 responses?

6 MR. MacMAIN: Well, I'll represent I certainly
7 worked with Mr. Graham when we prepared responses based on
8 information provided and based on information that was set
9 forth in the Complaint.

10 BY MS. WALLET:

11 Q. And I asked you to identify anything that you
12 might have in your possession relating to Barbara Varner or
13 her claims of sexual harassment and sex discrimination. Do
14 you recall that question?

15 A. Not really.

16 Q. Well, did you have these documents that have been
17 provided to me today at the time that you answered this
18 request in or about November of '02?

19 A. I knew I had them somewhere if I -- I knew I had
20 most of my material from my exit packed in boxes down in the
21 garage in my house, and I didn't go down there to discover
22 anything as far as -- until this became an issue here.

23 Q. Okay. You think you had them at that time; you
24 just hadn't gone through them? Is that your testimony?

25 MR. MacMAIN: Well, let me -- hold on a second.

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1 Let me represent, the question that was asked was any
2 documents regarding sexual harassment. At the time these
3 were answered -- and the Complaint set forth specific
4 instances that she's claiming harassment took place. These
5 documents go to a different issue altogether, and that
6 specifically has to do with allegations she raised in her
7 deposition as to that he was unfair in terms of his
8 evaluation, screamed at her and so forth.

9 So I think if your implication is he didn't
10 provide documents that were responsive to a question, they're
11 not responsive to that document request, and we will
12 supplement it based on assertions that she has made at her
13 deposition now that we have a more clear picture of exactly
14 what it is she's claiming Mr. Graham did or did not do.

15 MS. WALLET: Okay. I'm not casting any
16 aspersions on anyone, Mr. MacMain, but the question was:
17 Identify all documents in your possession relating in any way
18 to Barbara Varner or to her claims of sexual harassment and
19 sex discrimination.

20 MR. MacMAIN: Correct. And the allegation of
21 sexual harassment is what is set forth in the Complaint.
22 These documents go to a different issue.

23 MS. WALLET: I'm simply asking your client did he
24 have these documents in his possession at the time that he
25 answered this discovery request in November.

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1 THE WITNESS: No. I didn't -- I hadn't retrieved
2 them. I didn't know if I even had them.

3 BY MS. WALLET:

4 Q. Okay. And you say they were in your garage?

5 A. Sure.

6 Q. You didn't think something in your garage was in
7 your possession?

8 A. I didn't know what was in the boxes of materials
9 that I had -- I exited the courthouse in one day. Judge
10 Hoffer called me up on March 9th and said, you need to go
11 downstairs, pack your bags, take the rest of the day off, and
12 leave. That evening or that afternoon I packed everything in
13 boxes, actually computer boxes, and I threw everything in a
14 computer box and left the office.

15 Q. Did you have one box or more than one box?

16 A. I don't recall how many boxes I had. Numerous
17 boxes. Personal items and --

18 Q. Can you estimate for me how many documents you
19 might have taken when you left the courthouse that would be
20 similar to the ones that have been provided to me today?

21 A. I can't estimate anything like that. I don't
22 know.

23 Q. Well, you've looked through the boxes now,
24 correct?

25 A. Sure.

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1 Q. All right. And my question, sir, is: How much
2 material do you have relating to specific cases in your
3 possession? One box? Two boxes? One folder? A half inch?

4 A. I don't know. I don't know how many -- I
5 wouldn't be able to quantify what I have.

6 Q. Okay. After we had the deposition of Ms. Varner
7 did she raise certain issues and you said to yourself, oh, I
8 might have some of that stuff at home? Correct?

9 A. Sure.

10 Q. Okay. And then you went home and you looked
11 through what you had, and you came up with this package,
12 correct?

13 A. Correct.

14 Q. Okay. I'm asking you, sir, how much material did
15 you have to go through in order to find this package?

16 A. Maybe one folder.

17 Q. One folder. Is it half an inch thick, an inch
18 thick, three inches thick?

19 A. Probably less than a quarter of an inch thick.

20 Q. Okay. Are you satisfied, sir, that you have gone
21 through all of your documents and that you have pulled out
22 all of the documents that relate in any way to Barbara
23 Varner?

24 MR. MacMAIN: I'll object to that, because I
25 still need to review documents with him and provide

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1 supplementations if need be. So I'm not going to let him
2 answer whether he's gone through everything or he hasn't.

3 MS. WALLET: Okay. Are you going to let him
4 answer that he's gone through it but he's given some of it to
5 you?

6 MR. MacMAIN: If you can answer that. Have you
7 gone through all of -- well, no, because I need to consult
8 with him and determine what documents may be responsive and
9 which documents may not, which documents he has which may be
10 letters from counsel, either myself or prior counsel. So
11 we'll certainly supplement our discovery responses for
12 documents that are related to documents that have been asked
13 for or are relevant in the litigation, as I expect you would
14 as well.

15 MS. WALLET: Sure.

16 BY MS. WALLET:

17 Q. Other than this folder that you indicated, do you
18 have any other documents in your house, in your garage, in
19 some storage area, someplace that you have access to that
20 relate to Barbara Varner?

21 A. No, ma'am.

22 Q. This handwriting on the document marked
23 Deposition 5, is all of that your handwriting?

24 A. Yes.

25 Q. The initials up at the top, BEV, I assume those

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1 are Ms. Varner's initials?

2 A. Yes, ma'am.

3 Q. Everything else that's not typed belongs to you?

4 A. Yes, ma'am.

5 Q. Sir, have you talked to anyone other than your
6 wife since the deposition, the first day of your deposition,
7 regarding the matters surrounding Ms. Varner's Complaint?

8 We'll exclude counsel at this point.

9 A. No.

10 Q. Did you talk to Mr. Osenkowski?

11 A. No.

12 Q. Have you talked to any of the individuals who
13 have been identified as potential witnesses in this case?

14 A. No.

15 Q. Mr. Graham, did you ever threaten John Ward?

16 A. No, ma'am.

17 Q. Did you ever say that Mr. Ward would get his for
18 his activities relating to this Complaint?

19 A. No, ma'am.

20 Q. Do you harbor any ill will toward Mr. Ward as a
21 result of his actions concerning this Complaint?

22 A. Do I like him? No, I don't like him. Do I
23 harbor any ill will? No.

24 Q. Why don't you like him?

25 A. A multitude of reasons. I think he was a -- he

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1 interrupted the Probation office that was basically
2 unencumbered by partisan political process until he became
3 the chief clerk.

4 I didn't like what he did to our detention
5 center, where he tried to accuse Joe and I of negotiating
6 contracts without fiscal concerns. He talked clandestinely
7 that I can relate that behind our backs to the chief clerk in
8 Dauphin County over the Woodside and the Schaffner Youth
9 Centers.

10 He denied us compensation for after-hours duties,
11 where he would pay Children and Youth \$30,000 at the time to
12 have a night call person, and then finally corrected that and
13 I guess Joe has a night call person to handle after-hours
14 emergency calls.

15 He accompanied Gary Shuey into our office and was
16 angry that we were -- that dependency kids could not be kept
17 in the new Schaffner Youth Center that was being built. And
18 that was a decision Dauphin County had made to prohibit
19 dependency referrals being included into the detention
20 center.

21 There was an issue where he was advocating on
22 behalf of the 911 center because the probation officers
23 supposedly weren't answering their phones after emergency
24 call duty. And I think he had written a memorandum that
25 chastised the probation officers' wives and husbands for

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1 nobody answering the phone after emergency-duty calls.

2 He tried to demote a secretary of ours, Kathy
3 Zeigler, when we split the Juvenile Probation Departments.
4 And what I understand, it was the first time in the history
5 of the county where he tried to demote somebody moving
6 towards a, moving into a lateral position.

7 That's some of the things that I can recall.
8 That's probably not all of them.

9 Q. Do you dislike him for any of the actions that
10 were taken with regard to Ms. Varner's complaints?

11 A. I don't really know what he did in regard to
12 Ms. Varner's Complaint .

13 Q. Have you expressed your displeasure about
14 Mr. Ward's actions to Mr. Ward?

15 A. No.

16 Q. Have you expressed your displeasure about
17 Mr. Ward's actions to anyone in the Probation Department?

18 A. I don't think Mr. Ward is a fan of anyone in the
19 Probation office. Did I -- in generality terms, probably,
20 yes. I mean, from denial of grants to denial of, you know,
21 all those -- parking spaces. I advocated to try to get
22 parking spaces to transport secured juveniles, and he
23 wouldn't give us any of those or advocate on our behalf to
24 get a secure parking arrangement to be able to take juveniles
25 in and out of the court setting.

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1 Q. My question, sir, was: Did you express your
2 displeasure about Mr. Ward to anyone in the Probation office?

3 A. I probably said some things that I was displeased
4 about, just -- and the list is what I've just told you about.

5 Q. But you didn't say: He'll get his?

6 A. No.

7 Q. Mr. Graham, did you ever brag about having sex
8 with a woman who was wearing only a trench coat?

9 A. I think I did, yes. Not brag.

10 Q. What did you say?

11 A. I had had a relationship with a woman prior to my
12 marriage, that I was visited by a lady that wore a trench
13 coat and she had nothing underneath it.

14 Q. And did you make this statement during work
15 hours?

16 A. I might have.

17 Q. Was it during times when other probation officers
18 were present?

19 A. Sure.

20 Q. Were there female probation officers present at
21 that time?

22 A. No, ma'am.

23 Q. None?

24 A. Not that I recall.

25 Q. And what prompted you to bring up your prior

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1 sexual relation at work?

2 A. I think what prompted that was the amount of
3 phone calls that Ms. Varner made to me in regard to trying to
4 meet with me, and when the secretaries went to pick up the
5 phone they were suspicious that I had been involved with
6 somebody else or someone else, or somebody, so that's what
7 kind of prompted that.

8 Q. So you led them to believe that it was this woman
9 who was only wearing the trench coat that was making these
10 calls?

11 A. No. I didn't lead them to believe anything.
12 They can believe what they want to believe, you know. I
13 didn't say anything about that.

14 Q. I don't understand your answer, sir. I asked you
15 what prompted you to bring up this subject of having sex with
16 someone only wearing a trench coat, and you said it had
17 something to do with the calls you were receiving from
18 Ms. Varner. I don't understand your answer.

19 A. Well, they were suspicious of me having an
20 interaction with another woman.

21 Q. Who was suspicious?

22 A. Oh, my. Denny Drachbar, Sam Miller, Ronna
23 Boyles. Who else? I don't know. Fran Rose. I don't know
24 who else.

25 Q. What did they say or do that led you to conclude

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1 that they were suspicious of your relationship with
2 Ms. Varner?

3 A. Ronna was always saying, why are you getting all
4 these phone calls and I'm getting hang-ups?

5 Q. And what did you say?

6 A. Nothing.

7 Q. And what did Mr. Drachbar say or do that led you
8 to believe he was suspicious about your relationship with
9 Ms. Varner?

10 A. I don't know. I don't remember. That's too far
11 long ago.

12 Q. What did Mr. Miller say or do which led you to
13 believe that he was suspicious about your relationship with
14 Ms. Varner?

15 MR. MacMAIN: If you know.

16 THE WITNESS: I don't know.

17 BY MS. WALLET:

18 Q. What did Rose say or do that led you to believe
19 that she was suspicious of your relationship with Ms. Varner?

20 A. Just the complaints of Ronna receiving the calls
21 and nobody ever on the other end when they went to pick up.

22 Q. Well, I asked you this before, but why did you
23 think someone thought that that was Barb Varner?

24 A. Because Barb Varner and I shared companion cases.
25 We shared a personal relationship that was probably viewed by

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1 in the office that was closer than most. The fact that she,
2 you know, she was always confiding in me, you know, with some
3 of her personal situations. And the fact that she was using
4 me to sometimes write her reports and help her write her
5 reports. And all that interaction together was a position
6 that they thought I was showing her favoritism and
7 unfairness, or favoritism and it was unfair to them, that I,
8 they -- special audiences with her all the time as opposed
9 to, you know, giving them a correction. I would just tell
10 them about it or, you know, write them a note.

11 Q. Do you have a single fact that would link
12 Ms. Varner to your hang-up calls?

13 A. I don't think so, no.

14 Q. So Ms. Boyles comes to you and says something to
15 the effect of: Why are we getting all these hang-up calls?

16 A. Sure. Ronna narrated a lot of things to me, you
17 know, about -- she was from the hometown I came from, and she
18 was going through a divorce at the time of this business that
19 was going on in the office. And --

20 MR. MacMAIN: She just wants to know do you have
21 anything, any direct evidence that the hang-up calls were
22 from Ms. Varner as opposed to someone else.

23 THE WITNESS: No, I don't. No.

24 BY MS. WALLET:

25 Q. So Ms. Boyles comes you and says: We've been

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1 having all these hang-up calls. Who brought up the subject
2 of Barbara Varner in reference to these hang-up calls?

3 A. She did.

4 Q. And why did she say she thought it might be
5 Barbara Varner?

6 A. Because she thought that we were meeting in the
7 coffee room. And people would see us meeting in the coffee
8 room. We were having close interaction with one another.
9 And she knew that, I think, that I had advocated for
10 Ms. Varner's son, to get him a job at the Schaffner Youth
11 Center after he had failed to pass the first or second
12 interview that he was on.

13 So you know, those are the things that she, you
14 know, saw me extending myself to her benefit and figured
15 there might be something going on. And that was pretty much
16 like the office rumor mill that there might be something
17 going on between the two of us.

18 Q. And then this caused you to bring up the subject
19 of the woman wearing only the trench coat?

20 A. That was around -- right. That was around the
21 subject of -- Ronna said to me, well, you know, something
22 about, you know, something about who was that in reference,
23 or she said, I think Ronna said to me, I'll bet you were
24 pretty wild in your day, you know, in Newville. And I think
25 I had talked to Boyles about living above my dad's store as a

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1 single man and talked to her about different things in that
2 regard. And she, Ronna was after finding out if I knew any
3 information about who her husband --

4 MR. MacMAIN: Gary, she just --

5 THE WITNESS: -- was running around with up in
6 Newville.

7 MR. MacMAIN: Gary, she asked about the trench
8 coat, and if you don't have any more answer than what you've
9 given, then that's fine.

10 THE WITNESS: Did I give you the answer yet?

11 BY MS. WALLET:

12 Q. Well, my question, sir, was: What about these
13 circumstances could possibly have prompted you to blurt out
14 that you once had sex with a woman wearing only a trench
15 coat?

16 A. And my response to that is Ronna had shared
17 information and been in request of information about her
18 husband who she was going through a divorce, and during those
19 conversations she would relate that I'll bet you were pretty
20 wild.

21 And there was a connection between Ronna and my
22 dad's store because the first owners that tried to buy my
23 dad's store was Robert and somebody Barrick, Cheryl Barrick.
24 I know their last name is Barrick, I don't remember her name.
25 Well, this Cheryl Barrick and Ronna's husband ended up

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1 together and in a marital infidelity. And Ronna was
2 questioning me as to if I knew anything. And actually, she
3 was asking me daily, you know, what was going on, did you
4 hear anything about this Barrick girl and my husband. And I
5 had -- the boy that was running our store at the time,
6 because my dad had just been deceased, he one day said to me,
7 he said, I think Ronna Boyles' husband Ken moved in with this
8 Barrick woman down the street across from the fire company.

9 So those are the kind of conversations that we
10 had that were of intimate interactions. And I think during
11 those conversations with Ronna I got to talk to her about
12 I'll bet -- her making the introductory statement of saying,
13 I'll bet you were pretty wild in your day, and I said sure, I
14 was wild, you know, and I did things, so.

15 Q. And this was an example of how wild you were?

16 A. Well, if that's wild, Ms. Wallet. I don't know
17 if that's wild or what that is. I don't know if that -- I
18 don't know, what does that mean.

19 Q. Did you give her any other examples of how wild
20 you were at that time?

21 A. I don't remember anything else.

22 Q. Now, there were others that overheard this
23 conversation, correct?

24 A. I have no idea who overheard the conversation.

25 No, I don't know.

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1 Q. Did you consider this to be appropriate
2 discussion for the work setting?

3 A. In the private confines of my office and
4 responding to a desperate type of lady that was facing
5 divorce and inquiring about information that she was asking
6 me about, sure. It was a matter of, you know, maybe of, I
7 don't know, kind of pitying Ronna over the situation she
8 found herself. And I said everybody finds themselves in
9 different situations that they regret somewhere in their
10 life. Does that answer your question?

11 Q. Let me hand you a copy of the Complaint. Perhaps
12 this will make things a bit easier.

13 Would you turn to page 3 of the Complaint filed
14 by Ms. Varner in this action?

15 A. Okay.

16 Q. Specifically, paragraph 16. I'm going to ask you
17 about these paragraphs, sir, and I'll try to be specific in
18 my questions and if you could try to be specific in your
19 answers perhaps we might finish a little more quickly.

20 Ms. Varner has alleged that you made comments
21 about a female juvenile relating to premenstrual problems:
22 Jesus Christ, do I need to get a peter meter in my office.

23 Did you make that statement?

24 A. Not in front of Ms. Varner.

25 Q. Did you make it in front of someone else?

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1 A. Hank Thielemann. I don't remember saying Jesus
2 Christ.

3 Q. But you asked about the peter meter?

4 A. I made a comment to Hank after she turned the
5 case in of simple assault on a juvenile, I think it might
6 have been even a transfer case from Harrisburg, that this
7 girl's premenstrual cycle was the causation factors of the
8 girl's delinquency. And I looked at Hank and said, you know,
9 if we're going to look at premenstrual cycle being the
10 determinant of delinquency, then we're going to have to get a
11 peter meter for any sex crimes that we end up having.

12 And what I was referring to, Ms. Wallet is, a
13 peter meter is not the appropriate term but there is a
14 mechanism called an phylesmograph which is the proper term of
15 an instrument that's used to measure sexual arousal on sexual
16 offenders. So that's what my inclination was at the time I
17 made the off-the-cuff remark.

18 Q. So your reference to a peter meter was to this
19 particular instrument?

20 A. It was lack of a better word of understanding
21 exactly what a phylesmograph was properly called, yes.
22 Because I knew there was an instrument they measure sexual
23 arousal on sexual cases. And they also have, you know,
24 different modalities like showing videos and other things
25 that coincide with understanding how to measure sexual

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1 stimulation in different cases.

2 Q. Did you think it inappropriate of Ms. Varner to
3 reference something that was in this juvenile's medical
4 history?

5 A. You know, I'd have to see the report, and I've
6 never seen -- I can't recall the issues. You're asking me to
7 recite from memory something that's happened six and seven
8 years ago, and I can't recite those, that, those
9 circumstances. I just don't remember.

10 I remember that she didn't have medical concerns
11 or suicidal concerns that I was aware of. I don't remember
12 reading that in her report on the review. I remember her
13 highlighting the premenstrual problems, that that was the
14 causation factor, not the suicidal tendencies that she now
15 reports in her Complaint. I don't remember that. Could it
16 have been in there? It might have been. Could I have missed
17 it? Absolutely. I don't recall it being there. I recall it
18 just being a premenstrual problem that was highlighted in one
19 of her paragraphs. And I looked at Hank and said -- and she
20 wasn't even in the room. So that's an error, too. She
21 wasn't in the room when I made the comment.

22 Q. Were there others in the room then that overheard
23 the comment?

24 A. Only Henry Thielemann and myself. Hank
25 Thielemann and myself.

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1 Q. And where did this conversation take place?

2 A. In my office.

3 Q. Do you know whether Mr. Thielemann repeated this?

4 A. No. What happened was she came back into the
5 office, she came back into the office and Hank was smiling at
6 her, and she said, well, what are you guys smiling about?
7 And I said, Barb -- I made a comment about the juvenile
8 social history that you submitted and Henry found humor in
9 that.

10 Q. And was the comment repeated?

11 A. She asked for it to be repeated. She -- I said,
12 I don't want to repeat the comment because you will be citing
13 me for harassing and you will find it distasteful. And she
14 said, I'm fine with it, will you tell me what you said. And
15 I told her. And then she authored me with this Complaint.

16 Q. Now, why did you think at that time to say: I
17 don't want to repeat this because this might be sexual
18 harassment?

19 A. Because of what Joe had been through years before
20 on the Complaint with Kerry Houser.

21 Q. Had you received any sexual harassment training
22 before you made the statement about the peter meter?

23 A. I made it to another male individual in a private
24 setting, and I didn't see that as a matter of sexual
25 harassment. It might have been distasteful, it might have

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1 been out of order. It probably was out of order for me to
2 make the comment about it. But was it sexual harassment?
3 No. Did it pertain to Ms. Varner specifically? No.

4 Q. Did you consider it to be demeaning?

5 A. No.

6 Q. Did you consider it to be demeaning to the female
7 juvenile about which this statement was made?

8 A. Oh, no.

9 Q. And that was because the female juvenile would
10 never know about this?

11 A. The female juvenile, it was something that
12 Ms. Varner was reporting that the female juvenile had
13 experienced. I don't even know if the female juvenile, you
14 know, was talking about a premenstrual cycle. Maybe
15 Ms. Varner is the author of that premenstrual cycle comment.
16 You would have to talk to that juvenile, I guess.

17 Q. Now, B is the personal birthday card. You don't
18 deny sending that card?

19 A. I don't, ma'am. I didn't send it. I would have
20 given it to her.

21 Q. Okay. Do you deny any inappropriate touching?

22 MR. MacMAIN: Let me object. Do you mean -- we
23 went through this the other day, that it's his position this
24 was a consensual sexual affair. You're asking anything
25 beyond that?

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1 MS. WALLET: Correct.

2 THE WITNESS: No, ma'am.

3 BY MS. WALLET:

4 Q. Well, the question was: Do you deny any
5 inappropriate touching?

6 MR. MacMAIN: Well, I'm just clarifying what you
7 mean by inappropriate touching. Certainly -- Gary, let me
8 finish, please.

9 And if he believes, it's his position that it was
10 a consensual affair, I don't think under your definition it
11 would be inappropriate.

12 MS. WALLET: Right. And I asked the question
13 again because I don't think he understands the question.

14 THE WITNESS: You're right. I'm sorry, I don't.

15 BY MS. WALLET:

16 Q. Did you engage in any inappropriate touching
17 other than related to your consensual affair?

18 A. No, ma'am.

19 Q. You didn't go past her desk and touch her?

20 A. No, I didn't.

21 Q. Did you touch her at all in the workplace?

22 A. No.

23 Q. Did you ever appear uninvited at her home?

24 A. Absolutely not.

25 Q. Did you go into her back yard and shout for her?

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1 A. No, ma'am.

2 Q. Never?

3 A. Never. I testified the other day that I would
4 meet her through her back entrance of her house. That's
5 where -- when she would call me down to her house and we
6 would meet at her house I would go in the back door, the back
7 sliding glass doors where she would stand and wait for me to
8 park in an adjacent parking lot in a, it was an apartment
9 building adjacent from her house. So I would park in there,
10 walk in the back, and then she would let me in the back so
11 that her neighbors Gilbert and Crystal wouldn't see me, the
12 neighbors nextdoor. They were well -- he was in the well
13 drilling business. He was home quite a bit, so.

14 Q. Where did Gilbert and Crystal live?

15 A. Right across the street from Barb Varner.

16 Q. Across from the front door?

17 A. Right.

18 Q. You're sure about that?

19 A. Only what she told me.

20 Q. Okay. You're looking at C on page 4?

21 A. Yes, ma'am.

22 Q. Do you deny that allegation?

23 A. Absolutely. I had been to her room, though, on
24 her invite at five o'clock in the morning under the auspices
25 of going walking in the morning. But I had not been at her

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1 room on any other times and had not requested to be in her
2 room at any other juncture up there at State College.

3 Q. Did you call her room repeatedly?

4 A. No, ma'am.

5 Q. Did you take any action, sir, that Ms. Varner
6 might consider to be hostile or abusive?

7 MR. MacMAIN: Objection as to the form. How
8 would he know what she would consider hostile or abusive?

9 MS. WALLET: Well, I know when I say something to
10 a pet, that that pet is taking it as hostile or abusive. I
11 don't have to be in the pet's mind.

12 MR. MacMAIN: I'm not going to allow him to
13 answer what was in her mind. Unless you want to rephrase the
14 question, I'm not going to let him answer that.

15 BY MS. WALLET:

16 Q. Did you ever shout at Ms. Varner in the
17 workplace?

18 A. No, ma'am.

19 Q. Never?

20 A. Never.

21 Q. Did you ever raise your voice to her in the
22 workplace?

23 A. I might have raised my voice on being
24 disappointed in having to revisit the same issue three and
25 four times.

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1 Q. Did you ever swear at her?

2 A. Not at her. No, ma'am.

3 Q. Did you swear in her presence in the workplace?

4 A. I reverted to saying the F word on occasions.

5 Q. But you say that wasn't directed at her?

6 A. Not directed at her.

7 Q. She was present but it wasn't directed at her?

8 A. What do you mean by present? She was in the
9 office when I might have been angry about something and that
10 might not even have pertained to her and I used the F word.

11 Q. Is it your testimony that she never once told you
12 not to use the F word in speech with her?

13 A. That's my testimony, that's correct.

14 Q. She never objected to any of the language that
15 you used in front of her?

16 A. No, ma'am.

17 Q. Looking at page 4, subsection E.

18 A. Okay.

19 Q. Did you tell Ms. Varner any stories about your
20 sexual problems with your wife?

21 A. Other than I was disappointed in the amount of
22 sex that my wife and I were having, yes, I told her that.

23 Q. Did you talk about your wife's masturbation
24 habits?

25 A. No, ma'am.

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1 Q. Did you tell her that you kept a calendar of the
2 times when she would refuse to have sex with you?

3 A. No, ma'am. I did say that I probably not had sex
4 in maybe only two times a month, I would share that with her.
5 No calendars.

6 Q. Did you threaten to get even with your wife
7 because she wouldn't have sex with you?

8 A. No, ma'am.

9 Q. Did Ms. Varner ever suggest to you that you go to
10 counseling?

11 A. Not at all.

12 Q. Did you scream at her as part of these
13 discussions about you and your wife's sexual habits?

14 A. No.

15 Q. And do you deny driving at a high rate of speed?

16 A. That's questionable as far as -- I'm not a
17 conformist to the speed limit like most people aren't
18 probably even in this room, so -- but do I drive at a high
19 rate of speed? I've never been given a ticket, Ms. Waller,
20 in my personal car or the county car in the extensive amount
21 of trips that I took for speeding, and never been pulled over
22 for that, ma'am. So that's not true.

23 Q. Did you speed up the car in order to frighten
24 her?

25 A. Not at all. That's completely false.

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1 Q. Did your wife have a figurine collection?

2 A. Yes, she does.

3 Q. Did you tell Ms. Varner that you had smashed some
4 of it?

5 A. I think I told Denny Drachbar one time that I had
6 smashed a figurine.

7 Q. And what prompted you to tell Mr. Drachbar that
8 fact?

9 A. Our kitten had -- or our cat had had a litter of
10 kittens and there was one particular kitten that I liked, it
11 was striped, and my wife, I asked her to save it, because her
12 grandmother wanted some cats and her nieces and nephews
13 wanted a couple cats. And she gave the cat away that I liked
14 the most, and I was angry about it. And I don't know, I
15 guess we were talking about it in the living room, and I just
16 got consumed with my anger and I remember knocking the head
17 off of a figurine. I guess I picked this figurine up and I
18 just snapped it on the fireplace or something. But I was
19 angry over a kitten that she had given away, not I guess
20 what's in this Complaint.

21 Q. Did you ever tell Ms. Varner that you smashed
22 some of the figurine collection in response to her sexual
23 denials?

24 A. Not at all. That's a fabricated lie.

25 Q. What prompted you to tell Mr. Drachbar that you

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1 had done this?

2 A. I don't know. I just -- I think I had, he was --
3 I don't know. I don't know what prompted me. I just said I
4 got consumed by my anger the other evening.

5 Q. Ever destroy a birthday cake in front of your
6 daughters?

7 A. Not in front of my daughters, but I think I
8 was -- I think that's the situation where I was angry at my
9 wife because Denny Drachbar and Sam Miller repeatedly had
10 come down to my office and was basically what males would
11 call ribbing, teasing me or whatever, about this particular
12 law clerk named Tom Placey being in my wife's office and
13 having extended periods of discussions with her. And that
14 made me angry. And I think we got into an argument about why
15 he's having these extra, what I called it was bird-dogging,
16 he was up there following my wife, having extra amounts of
17 conversations, which totally that I interpreted much further
18 than it actually was meant. And I was jealous of that,
19 Ms. Wallet.

20 Q. So you thought Tom Placey was interested in your
21 wife sexually?

22 A. Yes, ma'am.

23 Q. And you were getting some ribbing about this from
24 your co-workers?

25 A. Yes, ma'am.

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1 Q. Because they had observed him hanging around your
2 wife?

3 A. Yes, ma'am.

4 Q. And what did you do in response to this?

5 A. I think we got into an argument and that's --

6 Q. We who?

7 A. My wife and I. And that's one of the nights I
8 must have smashed a piece of birthday cake. But it was not
9 in front of my daughters. That's not true.

10 Q. What did you do with this birthday cake?

11 A. I said I might have smashed it, or she might have
12 went to serve me cake and I said I don't want it, I want to
13 get back to the argument that we were in about him being
14 upstairs with her extended periods of time.

15 Q. And whose birthday cake was this?

16 A. I don't remember.

17 Q. Well, was it your birthday?

18 A. I don't recall. It wasn't my birthday, I don't
19 think.

20 Q. Was it her birthday?

21 A. It might have been. Might have been her
22 birthday.

23 Q. And why did you tell somebody about this incident
24 between you and your wife and the birthday cake?

25 A. I told Ms. Varner this. And why did I tell her?

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1 Because I guess I was asking for or looking to her for
2 sympathy, you know, since that would maybe enhance our
3 relationship or our involvement with each other.

4 Q. So you thought it would improve your chances of
5 having sex with Ms. Varner if you made it clear you were
6 fighting with your wife?

7 A. It was having sex with Ms. Varner. It didn't --
8 I don't follow your question. That wasn't accurately stated,
9 or I don't understand what you're trying to allege.

10 Q. My question is: What would have prompted you to
11 say to someone: You know, last night my wife served me
12 birthday cake and I smashed it in front of her?

13 MR. MacMAIN: He just answered your question.

14 MS. WALLET: Well, I didn't get the answer.

15 THE WITNESS: The answer was I thought it would
16 enhance the involvement I would have with Ms. Varner if she
17 knew I was mad at my wife. We were trying to justify our
18 illegitimate selfish behaviors, and we were always looking
19 for excuses to do that. It wasn't right but that's what
20 people do, I guess, that get involved with affairs.

21 BY MS. WALLET:

22 Q. Did you think that Ms. Varner when she heard this
23 might are fearful of you?

24 A. No. I thought it would enhance, I might even --
25 I thought she would interpret that as an enhancement towards

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1 having our relationship be more cemented or more fruitful.

2 Q. Did you tell other probation officers,
3 specifically female probation officers, that they were off
4 limits to Ms. Varner because they had made complaints?

5 A. No, ma'am.

6 Q. Did you warn Ms. Varner about Kerry Houser?

7 A. No, ma'am.

8 Q. Never said anything to Ms. Varner that was
9 negative about Kerry Houser?

10 A. I said I didn't like her.

11 Q. What did you tell Ms. Varner about Kerry Houser?

12 A. What did I tell Ms. Varner? Probably the same
13 stories I've testified earlier to, the fact that she had made
14 that revelation when I had an argument with Paul. She was
15 angry. She had made a call to Lynn Dickinson and her husband
16 out of the blue called me at my house. And actually
17 interrupted the woman's hiring. The woman was so what I
18 understand, and she can testify to this, she was so
19 traumatized she left and went to pursue her master's degree.

20 MR. MacMAIN: Gary, let me just interrupt. Is it
21 the same stuff we've already talked about before is what you
22 told Ms. Varner?

23 THE WITNESS: Yes.

24 MR. MacMAIN: We don't need to go through it all
25 over again.

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1 THE WITNESS: Okay.

2 MS. WALLET: I agree.

3 BY MS. WALLET:

4 Q. Did you tell Ms. Varner to stay away from Kerry
5 Houser?

6 A. No, I did not, ma'am.

7 Q. Did you tell Ms. Varner that she shouldn't talk
8 to Kerry Houser?

9 A. No, I did not.

10 Q. Did you make the statement about how dark you
11 thought a young female's bush was?

12 A. No, ma'am, I did not make that statement.

13 Q. At no time?

14 A. At no time.

15 Q. Did you ever move closer to Ms. Varner in an
16 aggressive manner?

17 A. No, ma'am.

18 Q. Did you ever point your finger in her face?

19 A. No.

20 Q. Did you ever point at her?

21 A. No.

22 Q. Did you ever throw something wadded up at her?

23 A. I looked at that Complaint and I do recall, it
24 might have been one of these sheets that she submitted after
25 the second or third time, and I rolled it up and I said, I

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1 think it was in regard to that victim sheet, she kept -- this
2 was a case of it was a trinity, there was a four or five
3 different individuals that were involved with this, and --

4 MS. WALLET: Let the record show that he's
5 referring now to Deposition Exhibit 5.

6 MR. MacMAIN: Gary, she didn't ask you about the
7 whole background.

8 THE WITNESS: What I'm saying is I balled the
9 paper up and threw it in the waste can and said, you know,
10 you didn't do what I asked you to do. You didn't put what I
11 asked you to put in these things. So I balled the paper up
12 and threw it in her trash can. And she's made the allegation
13 that I threw it at her, and I not do that, ma'am.

14 BY MS. WALLET:

15 Q. And you did that real quietly, didn't raise your
16 voice?

17 A. I didn't say I didn't raise my voice.

18 Q. You did raise your voice?

19 A. Sure.

20 Q. What did you say to her?

21 A. I just said, this isn't what I asked you, and I
22 asked -- and I've been through this three or four different
23 times with you. And I balled it up and threw it in the waste
24 can. And she's made the interpretation now that I threw it
25 at her, which I did not do.

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1 And did I raise my voice? Yes. Did I swear? I
2 don't remember swearing. I just remember I was frustrated
3 about seeing the same report three and four different times
4 submitted.

5 Q. Did you ever say anything to Ms. Varner that
6 would suggest that you and Mr. Osenkowski would punish people
7 in the office?

8 A. No, not at all.

9 Q. Did you ever say anything that would indicate
10 that people owed you for favors that you had given them?

11 A. No, ma'am.

12 Q. Did you ever tell Ms. Varner you thought she owed
13 you?

14 A. No, not at all. I did a number of different
15 things for a number of different people in that office over
16 the years, and that's just, that's the nature of what I was
17 like, not the nature of what you've reported in this
18 particular document and Complaint.

19 Q. Did you ever make the statement that all divorced
20 females are angry at men?

21 A. No, ma'am.

22 Q. Did you ever make the statement that women would
23 do a lot better if they spent more time on their knees?

24 A. Not at all. Never said anything like that.

25 Q. Never said that?

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1 A. Never.

2 Q. Did you ever brag that you could have Nicole
3 Galbraith Horick in a sexual fashion any time you wanted?

4 A. That's not true, ma'am. No. I had an excellent
5 relationship with Nicole Galbraith, or Horick.

6 Q. Did you have any sexual interest in her?

7 A. None whatsoever, ma'am.

8 Q. Did you ever do or say anything that someone
9 might interpret as a sexual interest in her?

10 A. No, ma'am.

11 Q. Do you believe that your affair with Ms. Varner
12 interfered in any way with the work that you were paid to do?

13 A. No, ma'am, not at all.

14 Q. I think I asked you this before. All of the time
15 that you spent during the workday in this affair, sexual
16 relations, were not on the clock?

17 A. Were not on duty.

18 Q. Even the ones that occurred during the middle of
19 the day?

20 A. We would take the afternoon off.

21 Q. I believe you told me there were sometimes when
22 you would sneak away for your liaison and go back to work,
23 correct?

24 A. That might have been in the early development
25 where we wouldn't do anything, we would just sneak away and

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1 be with one another and talk about our disappointments in our
2 partners' performances or sexually or something like that,
3 but we wouldn't really do anything.

4 Q. Did you ever take Ms. Varner in the car with you
5 when you visited a juvenile offender's mother in
6 Shippensburg, make her spend time in the car?

7 A. There again, you would have to give me a
8 reference point of who you're referring to or --

9 Q. Someone who worked at a dry cleaner's?

10 A. Yes.

11 Q. Do you know which individual I'm talking about
12 now?

13 A. Not specifically.

14 Q. This was someone who worked at a dry cleaner's,
15 lived in Shippensburg?

16 A. Yes.

17 Q. And what professional responsibility did you have
18 with regard to this woman or her family?

19 A. I think I handled her kid.

20 Q. And when you say handled, meaning it was a
21 juvenile that you were assigned to supervise?

22 A. Yes, ma'am. Yes, ma'am.

23 Q. And did you visit the home?

24 A. Whose home, the lady's home?

25 Q. Yes.

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1 A. Yes, ma'am.

2 Q. On more than one occasion?

3 A. Probably a few occasions, yes.

4 Q. And was Ms. Varner with you on any of those
5 occasions?

6 A. She might have been.

7 Q. You don't remember?

8 A. I don't recall. She could have been, sure.

9 Because we handled cases, I mean, Steve Wilson, I mean, I
10 remember, and that's an adult, so, and some other cases in
11 Shippensburg that, you know, she could have been along with
12 me and then we made a circle and stopped at other peoples'
13 homes.

14 Q. Did you ever tell her to stay in the car while
15 you went to visit this woman?

16 A. No, ma'am. I mostly saw the woman I guess at the
17 dry cleaner's or her house. I mean, that's what remember --
18 or the dry cleaning facility there in Shippensburg.

19 Q. Were you sexually attracted to this woman?

20 A. No, ma'am.

21 Q. Did you ever make any statements that would
22 indicate that you were sexually attracted to her?

23 A. No, ma'am.

24 Q. Mr. Graham, you were suspended for three days?

25 A. Yes, ma'am.

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1 Q. As a result of the allegations that Ms. Varner
2 made, correct?

3 A. No, ma'am.

4 Q. Didn't have anything to do with the allegations
5 that Ms. Varner made?

6 A. It had to do with swearing in the office.

7 Q. And how do you know that?

8 A. I think that's what Judge Sheely made in a
9 memorandum, that memorandum that he wrote or something.

10 Q. It was your belief that that didn't have anything
11 to do with Ms. Varner?

12 MR. MacMAIN: Objection. That's not what he
13 said. I think your question was anything to do with sexual
14 harassment, and he said no, his understanding was poor
15 language.

16 BY MS. WALLET:

17 Q. I thought my question was: Was it related to the
18 complaints made by Ms. Varner.

19 Did it have anything to do with the complaints
20 that Ms. Varner made?

21 A. You would have to ask him.

22 Q. In any event, you were told that you were going
23 to be suspended for three days.

24 A. Right.

25 Q. And then a different three days were picked,

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1 correct?

2 A. Yes.

3 Q. What do you remember about those circumstances?

4 A. Not a thing. I've tried to remember that, and I
5 don't know what the circumstances are, why they were changed.
6 I thought maybe they were a holiday. Did I ask him? No.

7 Q. Do you know whether this was Judge Sheely's idea
8 to change these dates?

9 A. You would have to ask him. I don't know. I
10 don't remember why the dates were changed. That's beyond me.

11 MS. WALLET: Okay. We'll still mark this
12 document. I think we're up to 6.

13 (Graham Deposition Exhibit No. 6 was marked.).

14 BY MS. WALLET:

15 Q. Do you have Deposition 6 in front of you?

16 A. Um-hum, yes.

17 Q. I don't see your name on this document, but did
18 you get a copy of this document either through your counsel
19 or in some other fashion?

20 MR. MacMAIN: Through your counsel, you mean in
21 this litigation? Or do you mean Mr. Foster back when all
22 this was happening?

23 MS. WALLET: From Mr. Foster back when all of
24 this was happening. Strike all of that. We'll start again.

25 BY MS. WALLET:

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1 Q. Did somebody give you what has been marked as
2 Deposition Exhibit 6?

3 A. Not that I recall, no.

4 Q. You don't think you received it in or about July
5 17, 1997?

6 A. I don't remember this corrected dates of
7 suspension. I don't remember it at all.

8 Q. Okay. Do you believe you got some other memo
9 telling you that the dates for your suspension had been
10 changed?

11 A. No, ma'am.

12 Q. Do you know who set the original dates when you
13 were to be suspended?

14 A. No. I mean, I imagine it was Judge Sheely.

15 Q. And you don't remember anything else about why
16 you were given the suspension or the date that you were to
17 serve the suspension?

18 A. Why I was given the suspension is because I used
19 foul language in the office. And what was the other part of
20 the question? Did I --

21 Q. Why it was changed, why the dates were changed.

22 A. I don't know. I don't know why, no.

23 Q. Did you disagree with this suspension?

24 A. I was guilty of using foul language in the
25 office. I didn't disagree with it at all.

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1 Q. And what language did you consider to be foul
2 that you admit you used?

3 A. Using the F word.

4 Q. Did Judge Sheely ask you whether or not you had
5 used the F word?

6 A. Yes.

7 Q. And how did you respond?

8 A. Yes.

9 MS. WALLET: Okay. I think I'm finished with my
10 questioning at this time, and simply reserve the right to
11 recall Mr. Graham after I've reviewed these documents. I'm
12 not saying that I'm going to, but I'd like to have the
13 opportunity to ask him a few more questions if I feel that's
14 necessary.

15 MR. MacMAIN: Sure. And the same, I think it's
16 the same reservation we had regarding Ms. Varner since we had
17 not gotten Answers to written discovery as well. It's
18 something counsel can amicably work out if it comes up in
19 either case.

20 MS. WALLET: Okay. That's all the questions I
21 have for today.

22 MS. WILLIAMS: I have just one quick
23 clarification.

24 BY MS. WILLIAMS:

25 Q. Mr. Graham, I think you know who I am by now.

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1 I'm Taylor Williams representing the Court.

2 Can you clarify for me who initiated the affair
3 that you had with Barbara Varner?

4 A. What I would justify initiation is when she
5 leaned over in the parking lot of the Zembo Shrine in
6 Harrisburg and kissed me, on the way out. That's what I
7 would say is an initiation.

8 Did we probably flirt with one another before
9 that? We probably both flirted, both each way.

10 Q. Did you actively pursue Mrs. Varner?

11 A. No, ma'am.

12 Q. So Ms. Wallet's characterizations in her
13 deposition questions that you sought this affair or initiated
14 that affair, would you say that those were correct or
15 incorrect characterizations?

16 A. They're incorrect.

17 MS. WILLIAMS: Thank you. That's all I have.

18 MR. BATES: I have no questions.

19 MS. WALLET: I think we're finished for today.

20 (Whereupon, the deposition was concluded at
21 1:27 p.m.)

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1 COMMONWEALTH OF PENNSYLVANIA)
)
2 COUNTY OF DAUPHIN)

3 I, Emily R. Clark, a Court Reporter-Notary Public
4 authorized to administer oaths and take depositions in the
5 trial of causes, and having an office in Harrisburg,
6 Pennsylvania, do hereby certify that the foregoing is the
7 testimony of S. GARETH GRAHAM taken by Plaintiff at the
8 Administrative Offices of Pennsylvania Courts, 5001 Louise
9 Drive, Mechanicsburg, Pennsylvania.

10 I further certify that before the taking of said
11 deposition the witness was duly sworn; that the questions and
12 answers were taken down in stenotype by the said
13 Reporter-Notary, approved and agreed to, and afterwards
14 reduced to computer printout under the direction of said
15 Reporter.

16 I further certify that the proceedings and
17 evidence are contained fully and accurately in the notes
18 taken by me on the within deposition, and that this copy is a
19 correct transcript of the same.

20 In testimony whereof, I have hereunto subscribed
21 my hand this 27th day of February, 2003.

22

23

24

Notary Public

25